

THIS REPORT CONTAINS ASSESSMENTS OF COMMODITY AND TRADE ISSUES MADE BY  
USDA STAFF AND NOT NECESSARILY STATEMENTS OF OFFICIAL U.S. GOVERNMENT  
POLICY

Required Report - public distribution

**Date:** 8/4/2009

**GAIN Report Number:**

## **Peru**

# **AGRICULTURAL BIOTECHNOLOGY ANNUAL**

## **Annual**

**Approved By:**

Eugene Philhower

**Prepared By:**

Gaspar E. Nolte

**Report Highlights:**

Peru's biotechnology promotion law is still awaiting approval by the Peruvian Congress. A recently approved regulation refers to biotechnology as an important tool for agricultural development.

### **Section I. Executive Summary:**

The Government of Peru supports the use, research and production of bio-engineered products. However, the Peruvian Congress has been unable to discuss or approve Proposed Law N°12033, called "Law to Promote the Use of Modern Biotechnology in Peru". The proposed law asserts that biotechnology and its applications are fundamental factors in improving Peru's competitiveness in the agricultural sector and economic development. The GOP recently created the Ministry of Environment which will play an important role in regulating biotechnology related issues.

The government regulates the biotechnology framework of the country through the Science and Technology Commission (CONCYTEC), which is an entity within the Ministry of the Presidency. The Ministries of Health, Agriculture, as well as the vice-ministry of Fisheries are responsible for regulating all biotechnology-related issues in their respective sectors. The

Biosafety Law (27104) issued in 1999 established the National Environment Committee (CONAM) as the authority for overseeing safety issues concerning biotech products. Peru has also established the National Committee of Biological Diversity (CONABID), which is a forum to discuss all biotechnology issues. This body is composed of all government regulating agencies with an interest in biotechnology, private sector, universities and international organizations such as the International Potato Center (CIP).

Peru has signed and ratified the Cartagena Biosafety Protocol; however, it is now looking to establish a law that promotes biotechnology and protects environmental health. Peru's position on this subject has changed as the country has recognized the significant benefits of biotechnology and has begun to develop regulation and procedures to promote the use of this technology. In fact, Peru plans to establish a National Biotechnology Center to link research and trade of biotech products. The most prominent issue regarding biotechnology is labeling.

U.S. trade interests lie mainly in the Peruvian agricultural poultry and livestock industries that demand U.S. corn and soybean meal. Peruvian agricultural exports, such as papaya and mangos, could potentially benefit from biotechnology as well. Crops for local consumption, such as corn, potatoes and cotton also have tremendous potential for benefiting from biotechnology.

Biotechnology is not well- understood by the general public in Peru. Capacity building and outreach activities have been, and are continuing to be, executed by Post, to inform and create awareness among government officials and the private sector of the benefits of biotechnology. In FY 2008, these activities will include sponsoring prominent Peruvian journalists to attend a biotechnology tour in the U.S., sponsoring Peruvian officials' attendance of international forums on biotechnology, sponsoring the travel of Peruvian scientists to the Philippines and supporting biotech seminars with U.S. speakers.

## **Section II. Biotechnology Trade and Production:**

Peru imports specific biotechnology crops, including soybeans and corn from the U.S. and Argentina. Peruvians recognize soybeans as a major source of protein and the only vegetable with complete protein. In Peru, soybeans are used for animal feed, direct consumption and processing into oil.

Peru does not commercially produce any biotechnology crops. However the International Potato Center (CIP - Centro Internacional de la Papa) in Lima, Peru has developed a genetically modified potato engineered to repel the potato moth. The potato tuber moth (*Phthorimaea operculella*) is the main cause behind the decimation of warehoused potato stocks throughout Peru (and throughout many other countries as well). At present, Peruvian farmers use vast quantities of pesticides to control the moth, which places their health and the environment's health at risk.

The CIP transferred a gene to confer resistance to the moth into the Revolution potato variety, which is naturally sterile, hence allaying fears of genes unintentionally flowing into native potato varieties. Specifically, the CIP transferred the Bt gene (which produces a toxin similar to that produced by the *Bacillus thuringiensis* bacterium) into the potato, now known as Revolution (Bt). However, this potato will not yet be released into the Peruvian market because the Peruvian government has not yet adopted regulations governing the application of agricultural biotechnology. Also, CIP has been reluctant to affront its European financial supporters with the release of a biotech potato.

## **Section III. New Technologies:**

## **Section IV. Biotechnology Policy:**

The Government of Peru and the Ministry of Agricultural has decided to embrace biotechnology as a venue for development. Proposed law N°12033, called "Law to Promote the Use of Modern Biotechnology in Peru," is waiting to be discussed in the Peruvian Congress.

This law has a completely different approach to biotechnology from previous ones. Instead of referring to the risks of biotechnology and how to prevent them, this proposed law encourages promotion of biotechnology and aims to

improve Peru's economic situation by taking advantage of the benefits of biotechnology. The proposed law stresses the importance of strengthening scientific capabilities, educating the population and establishing a transparent regulatory framework for biotech issues. This law also sees biotechnology as a means to improve the population's nutrition and health as well as food security. Finally, this proposed law encourages the creation of companies to provide biotechnological products and services.

The government regulates the biotechnology framework of the country through the Science and Technology Commission (CONCYTEC), which is an entity within the Ministry of the Presidency. The Ministry of Health, through the General Direction of Environmental Health (DIGESA); the Ministry of Agriculture, through the National Institute of Agricultural Research (INIA); and the Vice Ministry of Fisheries are responsible for regulating all biotechnology-related issues in their respective sectors. These entities must evaluate any safety risks regarding the use of biotechnology, as well as establish and monitor emergency plans in case of identified dangers.

According to the Biosafety Law issued in 1999 (Law N°27104), known as the Law for the Prevention of Risks Derived from the Use of Biotechnology, CONAM is the government entity responsible for all matters concerning biotechnology. The stated purpose of this law is to protect human health, environmental well-being and biodiversity, and to promote biotechnology research standards to reduce any possible risks during production. This law also established a counseling body, the National Committee of Biological Diversity (CONABID), which advises sector institutions (INIA, DIGESA and Vice Ministry of Fisheries) and proposes regulations to CONAM. CONABID is formed by a variety of government agencies such as the Animal and Plant Health Agency (SENASA), private sector, international organizations and universities. The Ministry on Environment will most likely play an important role in regulating biotech issues, however, such role has not been defined yet. So far the Environment Minister has staked out a strong anti-biotech position, but his degree of influence in shaping biotech policy remains unclear.

In Peru there is a scattered and disorganized, movement against biotechnology. This effort has mostly been led by environmental NGOs, which have been discouraging lawmakers and regulators from enacting laws promoting the use of agricultural biotechnology, arguing that they would endanger human health, biodiversity and organic agriculture production. This misconception often runs parallel to movements that promote organic farming. Traditional producers, mostly in the Highland mountainous region are organic simple because they can not afford or have no access to chemical fertilizers and pesticides. Certified organic farming is a long-term, expensive endeavor whose principal attraction is the reduced use of pesticides and the growing consumer markets both internationally and in Peru. However, there is a trade off with production as organic production is substantial lower than either Integrated Pest Management (IPM) or other "modern" production practices.

Peruvian organic farming does not completely disregard biotechnology, as a minority of those involved actually recognize that genetically modified seeds can also be grown organically. As a rule, organic farmers in the Andes value natural Andean products and lack any knowledge of the benefits or uses of Genetically Modified Organisms (GMOs). These views are reinforced by local and international NGOs, who provide misleading, often distorted, information on biotechnology. Besides these local groups, the Peruvian Consumers Association (ASPEC) has emerged as a leading critic of biotechnology on the national level. Currently the general public is not engaged in the discussions about agricultural biotechnology.

A principal factor influencing regulatory decisions on biotechnology is that of Intellectual Property Rights (IPR). New developments in agricultural biotechnology will require an efficient and transparent IPR system. Producers interested in this area in Peru will require protection for their investment in certain genetically modified crops and natural resources. On the other hand, native communities or local governments will want rights over their natural resources, and expect to receive compensation (such as royalties) for the use of their resources in biotechnology developments. An IPR system with either plant variety protection or patents would give the owner an exclusive right to their biotechnology crops from potential "copy competitors". With a good IPR system, Peru would benefit from protection of genetic resources used in production, thus safeguarding investment from abroad.

As required by the bilateral Trade Promotion Agreement with the United States, Peru has acceded to the International Union for the Protection of New Plant Varieties (UPOV) and is in the process of adapting the implementing regulations.

In Peru, there is no existing list of biotechnology crops approved for the environment or for food production. Peru does not allow field testing because INIA did not draft regulations required by the Biosafety Law 27104 "Prevention of Risks Derived from the Use of Biotechnology." CIP, however, is allowed to conduct research on genetically modified potatoes, and the INIA

and CIP work closely together in the agricultural sector. The potato is a highly valued and diversified Andean agricultural product. To maintain its status as the premier international expert in its field, CIP has been allowed by INIA to conduct biotechnology research but not to commercially produce potatoes.

Labeling of genetically modified food is still under discussion. Peru is in the process of deciding if genetically modified products are to be labeled under the dietary source of the product. Peru changed its position on labeling from a restrictive perspective, which established the use of GMO in a product, to a more flexible view using wording such as “may contain GMO”. Currently, Peru imports GMO soybeans and corn from the U.S. and Argentina that are not labeled.

Peru has signed and ratified the Biosafety Protocol but has not implemented it. Peru has found a way to interpret the Biosafety Protocol of 1999 to develop a law without contradicting the main regulations stated in the Protocol. The Law to Nationally Promote Biotechnology, which is currently in draft, will serve to expand biotechnology developments in Peru. This law requires regulation and promotion on scientific research, technology development and business innovation to increase economic benefits without disrupting human or environmental health. The Law calls for a National Biotechnology Plan that has already been written by the Science and Technology Commission (CONCYTEC) scientists. This Plan will prioritize crops and strategies to develop and use biotechnology products. Peru has a strong scientific community and the potential to develop into a biotechnology research country. Peruvian Universities and the CIP are examples of institutions that can contribute successfully to innovations in biotechnology.

Peru has neither biotechnology-related trade barriers nor does it have any pending legislation that will negatively affect U.S. exports. Post closely watched proposals on labeling and has been successful to date in working with Congressional contacts to discourage further development of such legislation

## **Section V. Marketing:**

Labeling constitutes the principal marketing issue for agricultural biotechnology in Peru. If labeling is required and enforced based on consumers’ rights, compliance will be a very expensive process for most companies. Labeling would have to include a verifiable description of production technique and all inputs to production. This topic raises questions such as:

- When a product is considered genetically modified? and,
- What constitutes the minimum requirement for a product to be genetically modified?

Regulations will require genetically modified crops to be labeled if there is a change in the composition of the product or if it was derived from genetically modified organisms. To date, the GOP has not made a decision whether labeling will be required for GMOs.

In August 2008, anti-biotech forces in the Peruvian Congress proposed mandatory labeling regulation for GMO products. Proponents of the law insist that its purpose is to provide consumers with adequate information so that they may make an informed decision when purchasing products containing GMOs.

There are three laws already in existence which they assert complement this new labeling law: Legislative Decree N° 716 “Consumer Protection Law,” Law 27104 “Risk Prevention in the Use of Biotechnology Law,” and Supreme Decree N° 108-2002-PCM which establishes and maintains a public register of GMO products or products that contain them. They also reference similar laws in the EU which maintain that consumers have the right to access information regarding the use of GMOs in their food.

The proposed law does not differentiate between GMO products and products containing some GMO ingredients. It mandates that all products meant for human consumption containing GMOs – no matter what percentage of GMOs are in the product – must list those ingredients on the packaging. For example, corn meal ingredients would be listed as “corn (made in part with genetically modified corn).” Or, packaging of cookies containing chocolate made with soy milk would list, “chocolate (containing lecithin made in part of genetically modified soy).”

Several stakeholders continue to oppose the presence of GMO products in Peru. The Minister of the Ministry of Environment has proposed declaring Peru “free of GMO products” to both protect native products and develop Peru’s organic and natural food product industries. Furthermore, the Ministry proposed establishing a moratorium on all imports of GMO products until it

is certain that native species will be unaffected by the presence of such products. Once it has been established that GMO products are not a threat to native species or the health of consumers, then, only non-native Peruvian products consisting of GMO ingredients should be imported to continue protecting the integrity of native species.

The Ministry of Agriculture, clearly a biotech advocate together with the private sector, are leading the charge to prevent the labeling law from passing and educating the general public and the Peruvian congress about the benefit of biotechnology. Post continues supporting their efforts.

## **Section VI. Capacity Building and Outreach:**

In Peru, US Government/USDA-funded capacity building and outreach activities relating to biotechnology with various purposes include:

- USDA's Agricultural Affairs Office in Lima works closely with CONCYTEC, providing contacts and information on biotechnology to develop the National Biotechnology Plan.
- AAO/Lima works closely with the Minister of Agriculture and its advisors in promoting a biotechnology friendly environment among the GOP.
- AAO/Lima has made funds available to assist Peru in its organization efforts for APEC's biotechnology meeting.
- AAO/Lima has organized seminars on biotechnology for policy makers, leaders of agricultural industries, academia and congressmen. Seminars are used to raise awareness in the Peruvian government and private sector on the importance of developing agricultural biotechnology.
- USDA, through the CGIAR system, provides funds for CIP to carry out research, including biotechnology, on potatoes and other tubers.
- USDA has sponsored Peruvian officials to attend biotechnology-related forums. This includes both APEC and Codex meetings.